VPH

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 166 OF 2007
IN
FAMILY COURT APPEAL (St.) No. 14475 OF 2007

Office notes, :
office memoranda :
of coram, :
appearances, :
Court's orders : Court's or Judge's
directions & : order
Registrar's :
orders :

Mrs. Jyoti Pawar with Mrs. S. Halwasia, Advocates for applicant.

Mr. Santosh Adukia, Advocate (the respondent in person).

CORAM: J. N. PATEL,
AND
A. A. SAYED, JJ.

DATE : AUGUST 2, 2007.

P.C.:

. Heard. Application for condonation of delay is hotly contested by the respondent husband, on the ground that the applicant has taken contrary pleas for seeking condonation of delay, based on false documents and that she has committed parjury, and does not deserve any consideration or sympathy from this Court, and has cited following authorities, in support of his

contentions-

1) (1984)3 SCC 107,

2) AIR 1987 Bombay 231,

3) AIR 1996 Punjab & Haryana 263,

4) AIR 1997 Rajasthan 63,

5) 2000 All. H.C. 126,

6) 2001 All. H.C. 4361,

7) AIR 1993 Bombay 76,

8) 1998(2) Mh.L.J. 437,

9) AIR 2005 Bombay 62,

10) AIR 1995 Supreme Court 1795,

11) AIR 1995 P & H 216,

12) AIR 1959 S.C. 843,

13) News Paper Clipping.

2. In our view, it is a fit case where the applicant deserves an opportunity, to be heard on merits. May be that the reasons given by her may not be justified for the delay. Rather it is the case of the respondent/husband that the applicant suffers from mental illness, in respect of which he has led evidence by tendering certificate issued by the doctor, dated 26th May 1998. The matter in

our opinion requires to be examined on merits, and therefore, we are inclined to condone the delay. The application is therefore, allowed. The delay preferred in filing the Family Court Appeal is condoned. The appeal be registered & listed for admission in the next week.

3. The request of the respondent to stay the order for 16 weeks is rejected.

Sd/- Sd/-

[A. A. SAYED, J.] [**J. N. PATEL, J.]**